

United States District Court

FOR THE
NORTHERN DISTRICT OF CALIFORNIA

VENUE: SAN FRANCISCO

09 APR 21 PM 2:36
MICHAEL F. KARA, JR.
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
FILED

UNITED STATES OF AMERICA,

v.

CR 09 0417

MAHER FAYEZ KARA,
MOUNIR FAYEZ KARA
(aka MICHAEL F. KARA)
EMILE YOUSSEF JILWAN,

MHP

[REDACTED]
[REDACTED] ED
DEFENDANT(S).

INDICTMENT

VIOLATIONS: 18 U.S.C. § 371 (Conspiracy); 15 U.S.C. §§ 78j(b) and 78ff, 17 C.F.R. §§ 240.10b-5, 240.10b5-1 and 240.10b5-2, 18 U.S.C. § 2 (Securities Fraud); 18 U.S.C. § 1505 (Obstruction); and 18 U.S.C. §§ 981(a)(1)(C) and 982, 21 U.S.C. § 853(p), 28 U.S.C. § 2461 (Forfeiture).

A true bill.

George Jemminger
Foreman

Filed in open court this _____ day of

Clerk

Ronald Jemminger Bail, \$ 16 bail warrants to issue
S
*/

0909-417 MHP

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION IN U.S. DISTRICT COURTBY: COMPLAINT INFORMATION INDICTMENT SUPERSEDING**OFFENSE CHARGED**

VIOLATION:

See Penalty Sheet Attachment

- Petty
 Minor
 Misdemeanor
 Felony

PENALTY:

See Penalty Sheet Attachment

Name of District Court, and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

DEFENDANT - U.S.

EMILE YOUSSEF JILWAN

DISTRICT COURT NUMBER

CR 09 0417

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

FBI

 person is awaiting trial in another Federal or State Court,
give name of court this person/proceeding is transferred from another district
per (circle one) FRCrp 20, 21, or 40. Show District this is a reprocsecution of
charges previously dismissed
 which were dismissed on motion
of: U.S. ATTORNEY DEFENSE this prosecution relates to a
pending case involving this same
defendant prior proceedings or appearance(s)
 before U.S. Magistrate regarding this
defendant were recorded underSHOW
DOCKET NO.MAGISTRATE
CASE NO.Name and Office of Person
Furnishing Information on this form JOSEPH P. RUSSONIELLO U.S. Attorney Other U.S. AgencyName of Assistant U.S.
Attorney (if assigned)

ADAM A. REEVES

IS NOT IN CUSTODYHas not been arrested, pending outcome this proceeding.
1) If not detained give date any prior
summons was served on above charges2) Is a Fugitive3) Is on Bail or Release from (show District)

MHP

IS IN CUSTODY4) On this charge5) On another conviction} Federal State6) Awaiting trial on other charges

If answer to (6) is "Yes", show name of institution

Has detainer Yes
been filed? No} If "Yes"
give date
filedDATE OF
ARREST

Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED
TO U.S. CUSTODY

Month/Day/Year

 This report amends AO 257 previously submitted**PROCESS:** SUMMONS NO PROCESS* WARRANT

Bail Amount: NO BAIL

If Summons, complete following:

 Arraignment Initial Appearance

Defendant Address:

* Where defendant previously apprehended on complaint, no new summons or
warrant needed, since Magistrate has scheduled arraignment

Date/Time: _____ Before Judge: _____

Comments:

April 21, 2009

PENALTY SHEET ATTACHMENT

Counts One and Thirty-Six:

18 U.S.C. § 371 (Conspiracy)

Maximum penalty: 5 years imprisonment
\$250,000 fine (18 U.S.C. § 3571(b)(3))
3 years supervised release (18 U.S.C. § 3583(b)(2))
\$100 special assessment (18 U.S.C. § 3013)

Counts Two through Thirty-Five:

15 U.S.C. §§ 78j(b) and 78ff, 17 C.F.R. §§ 240.10b-5, 240.10b5-1
and 240.10b5-2, 18 U.S.C. § 2 (Securities Fraud)

Maximum penalty: 20 years imprisonment
\$5,000,000 fine
3 years supervised release
\$100 special assessment

Counts Thirty-Seven and Thirty-Eight:

18 U.S.C. § 1505 (Obstruction)

Maximum penalty: 5 years imprisonment
\$250,000 fine
3 years supervised release
\$100 special assessment

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- Felony

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NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

DEFENDANT - U.S.

MAHER FAYEZ KARA

DISTRICT COURT NUMBER

CR 09 0417

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

FBI

 person is awaiting trial in another Federal or State Court,
give name of court this person/proceeding is transferred from another district
per (circle one) FRCrp 20, 21, or 40. Show District this is a reprocsecution of
charges previously dismissed
which were dismissed on motion
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before U.S. Magistrate regarding this
defendant were recorded underSHOW DOCKET NO.
_____MAGISTRATE
CASE NO.
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DATE TRANSFERRED
TO U.S. CUSTODY

Month/Day/Year

 This report amends AO 257 previously submittedName and Office of Person
Furnishing Information on this form JOSEPH P. RUSSONIELLO U.S. Attorney Other U.S. AgencyName of Assistant U.S.
Attorney (if assigned)ADAM A. REEVES**PROCESS:** SUMMONS NO PROCESS* WARRANTBail Amount: NO BAIL

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SAN FRANCISCO DIVISION

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

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 person is awaiting trial in another Federal or State Court, give name of court this person/proceeding is transferred from another district per (circle one) FRCrp 20, 21, or 40. Show District this is a reprocution of charges previously dismissed which were dismissed on motion of: U.S. ATTORNEY DEFENSE this prosecution relates to a pending case involving this same defendant prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded underSHOW DOCKET NO.
}MAGISTRATE CASE NO.
}

Name and Office of Person Furnishing Information on this form JOSEPH P. RUSSONIELLO

 U.S. Attorney Other U.S. Agency

Name of Assistant U.S. Attorney (if assigned)

ADAM A. REEVES

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Comments: _____

DEFENDANT - U.S.

MOUNIR FAYEZ KARA aka MICHAEL F. KARA

DISTRICT COURT NUMBER

CR 09 0417

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ADDITIONAL INFORMATION OR COMMENTS

April 21, 2009

PENALTY SHEET ATTACHMENT

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1 JOSEPH P. RUSSONIELLO (CABN 44332)
2 United States Attorney
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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 v.

14 MAHER FAYEZ KARA,

15 MOUNIR FAYEZ KARA

16 (also known as MICHAEL F. KARA), and

17 EMILE YOUSSEF JILWAN,

Defendants.

CR 09

0417

MHP
VIOLATIONS: 18 U.S.C. § 371
(Conspiracy); 15 U.S.C. §§ 78j(b) and 78ff,
17 C.F.R. §§ 240.10b-5, 240.10b5-1 and
240.10b5-2, 18 U.S.C. § 2
(Securities Fraud); 18 U.S.C. § 1505
(Obstruction); and 18 U.S.C. §§
981(a)(1)(C) and 982, 21 U.S.C. § 853(p),
28 U.S.C. § 2461 (Forfeiture).

SAN FRANCISCO VENUE

INDICTMENT

The Grand Jury charges:

Relevant Entities and Individuals

1. At all relevant times, Citigroup Global Markets Inc., a wholly owned subsidiary of
2 Citigroup Inc. ("Citigroup"), operated as an investment bank located in New York, New York. A
3 significant portion of Citigroup's business was devoted to advising corporations on various
4 financings and business related transactions.

2. At all relevant times, MAHER FAYEZ KARA was employed as an investment

INDICTMENT

1 banker by Citigroup in the firm's Investment Banking Division in the Healthcare Group and
2 resided in or near New York, New York.

3 3. At all relevant times, MOUNIR FAYEZ KARA, also known as MICHAEL F.
4 KARA, resided in or near Walnut Creek, California.

5 4. MAHER FAYEZ KARA and MOUNIR FAYEZ KARA are brothers.

6 5. At all relevant times, EMILE YOUSSEF JILWAN resided in or near Pleasanton,
7 California.

Citigroup's Confidentiality Policy

10 6. At all relevant times, Citigroup maintained written policies prohibiting the
11 dissemination of material non-public and confidential information relating to pending
12 transactions and financings in which Citigroup was involved. Throughout his employment at
13 Citigroup, MAHER FAYEZ KARA received repeated training and guidance about the proper use
14 of material non-public and confidential information and the prohibitions against the improper use
15 of such information including violations of the insider trading laws. For example, MAHER
16 FAYEZ KARA was specifically instructed by Citigroup that:

The misuse of material non-public information is a crime. Under U.S. Federal securities laws, misuse of material non-public information can constitute insider trading.

* * * *

Employees may not: ... Use confidential information or material non-public information to trade securities for their own (or related) accounts or to advise relatives, friends or others with respect to trading.

As a licensed and trained investment banking professional, MAHER FAYEZ KARA knew and understood the rules relating to the use of material non-public and confidential information.

The Citigroup Inside Information

7. At various times relevant to this Indictment, Citigroup provided financial and

INDICTMENT

1 investment banking services and advice to Citigroup clients in connection with the confidential
2 transactions described below (the "Citigroup Inside Information"):

3 a. Company A: In or about April 2004, Citigroup advised Company A, a public
4 company known to the Grand Jury, on a potential sale involving Company B, a public company
5 known to the Grand Jury.

6 b. Endo Pharmaceuticals Holdings Inc.: In or about April 2004, Citigroup was
7 involved in a secondary equity offering for Endo Pharmaceuticals Holdings Inc. On or about
8 August 4, 2004, there was a public announcement relating to this transaction.

9 c. Schering-Plough Corporation: In or about May 2004, Citigroup was
10 involved in an equity offering for Schering-Plough Corporation. On or about August 4, 2004,
11 there was a public announcement relating to this transaction.

12 d. Pain Therapeutics, Inc.: In or about August 2004, Citigroup was involved in
13 an equity offering for Pain Therapeutics, Inc. On or about September 22, 2004, there was a
14 public announcement relating to this transaction.

15 e. Company C: In or about November 2004, Citigroup advised Company C, a
16 public company known to the Grand Jury, on a potential sale to Company D, a public company
17 known to the Grand Jury.

18 f. Protein Design Labs, Inc. (also known as PDL Biopharma, Inc.): In or about
19 January 2005, Citigroup advised Protein Design Labs, Inc. on financing matters relating to an
20 acquisition involving ESP Pharma Inc. On or about January 25, 2005, there was a public
21 announcement relating to this acquisition. On or about February 7, 2005, there was a public
22 announcement relating to this financing.

23 g. Bone Care International, Inc.: In or about April 2005, Citigroup advised
24 Bone Care International, Inc. on a sale to Genzyme Corporation. On or about May 4, 2005, there
25 was a public announcement relating to this transaction.

26 h. Company E: In or about June 2005, Citigroup advised Company E, a public
27 company known to the Grand Jury, on a potential sale involving Company F, a public company

28 INDICTMENT

1 known to the Grand Jury.

2 i. Company H: In or about June 2005, Citigroup advised Company G, a public
3 company known to the Grand Jury, on a potential acquisition involving Company H, a public
4 company known to the Grand Jury.

5 j. Company I: In or about January 2006, Citigroup advised Company I, a public
6 company known to the Grand Jury, on a potential takeover involving Company J, a public
7 company known to the Grand Jury.

8 k. Andrx Corporation: In or about January 2006, Citigroup advised Company
9 K, a public company known to the Grand Jury, on a potential acquisition involving Andrx
10 Corporation. On or about March 13, 2006, there was a public announcement relating to Andrx
11 Corporation.

12 l. HCA, Inc.: In or about June 2006, Citigroup advised Kohlberg Kravis
13 Roberts & Co. LP on a buyout involving HCA, Inc. On or about July 24, 2006, there was a
14 public announcement relating to this transaction.

15 m. United Surgical Partners International, Inc.: In or about late 2006 to early
16 2007, Citigroup advised Welsh, Carson, Anderson & Stowe on a buyout involving United
17 Surgical Partners International, Inc. (also known as USPI). On or about January 8, 2007, there
18 was a public announcement relating to this transaction.

19 n. Company M: In or about November 2006, Citigroup advised Company L, a
20 public company known to the Grand Jury, on a potential acquisition involving Company M, a
21 public company known to the Grand Jury.

22 o. Biosite Incorporated: In or about March 2007, Citigroup advised Beckman
23 Coulter, Inc. about financing relating to an acquisition involving Biosite Incorporated. On or
24 about March 25, 2007, there was a public announcement relating to this transaction.

25 p. Company O: In or about February 2007, Citigroup advised Company N, a
26 public company known to the Grand Jury, on a potential acquisition involving Company O, a
27 public company known to the Grand Jury.

28
INDICTMENT

8. As a result of his employment at Citigroup, MAHER FAYEZ KARA had access to material, non-public information relating to the Citigroup Inside Information. MAHER FAYEZ KARA also had access to material, non-public information relating to other confidential transactions in which Citigroup was involved.

The Insider Trading Scheme

9. From in or about 2004 through in or about 2007, MAHER FAYEZ KARA, MOUNIR FAYEZ KARA, EMILE YOUSSEF JILWAN and others participated in a scheme to defraud by executing securities transactions based on material, non-public information relating to the Citigroup Inside Information. MAHER FAYEZ KARA regularly and repeatedly called or communicated with MOUNIR FAYEZ KARA and provided MOUNIR FAYEZ KARA with material, non-public information relating to the Citigroup Inside Information and other material, non-public and confidential information.

10. Using the Citigroup Inside Information, MOUNIR FAYEZ KARA and EMILE YOUSSEF JILWAN executed, or caused others to execute, multiple securities transactions in various brokerage accounts based on the Citigroup Inside Information. MAHER FAYEZ KARA, MOUNIR FAYEZ KARA and EMILE YOUSSEF JILWAN benefitted from their participation and the participation of others in this insider trading scheme.

11. Between 2004 and 2007, MAHER FAYEZ KARA, MOUNIR FAYEZ KARA, EMILE YOUSSEF JILWAN generated profits in excess of \$5.3 million as a result of this insider trading scheme.

Investigation by the United States Securities and Exchange Commission

12. At all relevant times, the United States Securities and Exchange Commission (the “SEC”) was an independent agency of the United States. The SEC’s Division of Enforcement, among other things, investigated possible violations of federal securities laws and regulations and brought administrative and civil actions to enforce those laws and regulations.

INDICTMENT

13. In or about April 2007, the SEC commenced an investigation into securities fraud and insider trading relating to purchases and sales of securities issued by Biosite Incorporated.

14. On or about April 30, 2007, attorneys from the SEC's Division of Enforcement conducted a telephone interview of MOUNIR FAYEZ KARA as part of the SEC's investigation into securities fraud and insider trading relating to purchases and sales of securities issued by Biosite Incorporated.

15. On or about April 30, 2007, attorneys from the SEC's Division of Enforcement conducted a telephone interview of EMILE YOUSSEF JILWAN as part of the SEC's investigation into securities fraud and insider trading relating to purchases and sales of securities issued by Biosite Incorporated.

16. MOUNIR FAYEZ KARA and EMILE YOUSSEF JILWAN produced or otherwise provided documents and other materials to the SEC.

COUNT ONE: 18 U.S.C. § 371 (Conspiracy to Commit Securities Fraud)

17. Paragraphs 1 through 16 are realleged as if fully set forth herein.

18. From in or about 2004 through in or about 2007, in the Northern District of California and elsewhere, the defendants

MAHER FAYEZ KARA,
MOUNIR FAYEZ KARA, and
EMILE YOUSSEF JILWAN,

and others unlawfully, willfully, and knowingly, did conspire and agree together and with each other to commit an offense against the United States, to wit, securities fraud, in violation of Title 18, United States Code, Section 371, and Title 15, United States Code, Section 78j(b) and 78ff, and Title 17, Code of Federal Regulations, Sections 240.10b-5, 240.10b5-1 and 240.10b5-2.

19. It was a part and object of the conspiracy that MAHER FAYEZ KARA, MOUNIR FAYEZ KARA, EMILE YOUSSEF JILWAN and others unlawfully, willfully, and knowingly, directly and indirectly, by the use of means and instrumentalities of interstate commerce, and of the mails, and of facilities of national securities exchanges, used and employed, in connection

INDICTMENT

1 with the purchase and sale of securities, manipulative and deceptive devices and contrivances by:
2 (a) employing devices, schemes and artifices to defraud; (b) making untrue statements of material
3 fact and omitting to state material facts necessary in order to make the statements made, in the
4 light of the circumstances under which they were made, not misleading; and (c) engaging in acts,
5 practices and courses of business which operated as a fraud and deceit upon members of the
6 investing public and others, in connection with the purchase and sale of securities, in violation of
7 Title 15, United States Code, Section 78j(b) and 78ff, and Title 17, Code of Federal Regulations,
8 Sections 240.10b-5, 240.10b5-1 and 240.10b5-2.

9

10 The Means and Methods of the Insider Trading Conspiracy

11 20. Among the means and methods by which MAHER FAYEZ KARA, MOUNIR
12 FAYEZ KARA, EMILE YOUSSEF JILWAN and others carried out this insider trading
13 conspiracy were the following:

14 a. MAHER FAYEZ KARA misappropriated the Citigroup Inside Information
15 in violation of (i) the fiduciary and other duties of trust and confidence that MAHER FAYEZ
16 KARA owed to Citigroup and Citigroup's clients; (ii) the expectations of confidentiality of
17 Citigroup's clients; and (iii) Citigroup's policies and procedures relating to the use and
18 safekeeping of confidential and material, non-public information.

19 b. MAHER FAYEZ KARA, in breach of his duty of confidentiality to
20 Citigroup and Citigroup's clients, disclosed the Citigroup Inside Information that MAHER
21 FAYEZ KARA had misappropriated from Citigroup and Citigroup's clients to MOUNIR
22 FAYEZ KARA, with the understanding that MOUNIR FAYEZ KARA would use the Citigroup
23 Inside Information to purchase and sell securities, and MAHER FAYEZ KARA thereby received
24 and caused others to receive substantial illegal profits.

25 c. MOUNIR FAYEZ KARA, while in possession of the Citigroup Inside
26 Information that MOUNIR FAYEZ KARA knew had been misappropriated by MAHER FAYEZ
27 KARA in breach of the duty owed by MAHER FAYEZ KARA and Citigroup to keep such

28 INDICTMENT

1 information confidential, purchased and sold securities based on such information and caused
2 others to purchase and sell securities based on such information and thereby received and caused
3 others to receive substantial illegal profits.

4 d. MOUNIR FAYEZ KARA disclosed some or all of the Citigroup Inside
5 Information that MAHER FAYEZ KARA had misappropriated from Citigroup and Citigroup's
6 clients to EMILE YOUSSEF JILWAN and others, with the understanding that EMILE
7 YOUSSEF JILWAN and others would use, or cause others to use, the Citigroup Inside
8 Information to purchase and sell securities, and MOUNIR FAYEZ KARA thereby received and
9 caused others to receive a benefit including substantial illegal profits.

10 e. EMILE YOUSSEF JILWAN, while in possession of the Citigroup Inside
11 Information that EMILE YOUSSEF JILWAN knew had been misappropriated by MAHER
12 FAYEZ KARA in breach of the duty owed by MAHER FAYEZ KARA and Citigroup to keep
13 such information confidential, purchased and sold securities based on such information and
14 caused others to purchase and sell securities based on such information and thereby received and
15 caused others to receive a benefit including substantial illegal profits.

16

17 Overt Acts of the Insider Trading Conspiracy

18 21. In furtherance of the conspiracy and to effect the illegal object thereof, MAHER
19 FAYEZ KARA, MOUNIR FAYEZ KARA and EMILE YOUSSEF JILWAN committed and
20 caused others to commit the following overt acts, among others, in the Northern District of
21 California and elsewhere:

22 a. On or about April 23, 2004, approximately 10 securities known as puts in
23 Endo Pharmaceuticals Holdings Inc. were purchased in Fidelity Investments Account X04-
24 150312.

25 b. On or about May 10, 2004, approximately 30 securities known as calls in
26 Company A were purchased in Charles Schwab Account 6104-7616.

27 c. On or about May 17, 2004, approximately 40 securities known as puts in

28 INDICTMENT

1 Schering-Plough Corporation were purchased in Charles Schwab Account 6104-7616.

2 d. On or about September 7, 2004, approximately 35 securities known as puts
3 in Pain Therapeutics, Inc. were purchased in Charles Schwab Account 6104-7616.

4 e. On or about December 2, 2004, approximately 50 securities known as calls in
5 Company C were purchased in Charles Schwab Account 6104-7616.

6 f. On or about January 24, 2005, approximately 60 securities known as puts in
7 Protein Design Labs, Inc. were purchased in Charles Schwab Account 6104-7616.

8 g. On or about May 2, 2005, approximately 300 securities known as shares in
9 Bone Care International, Inc. were purchased in Fidelity Investments Account X04-150312.

10 h. On or about June 21, 2005, approximately 750 securities known as shares in
11 Company E were purchased in Charles Schwab Account 4176-1125.

12 i. On or about June 27, 2005, approximately 25 securities known as calls in
13 Company E were purchased in Charles Schwab Account 6104-7616.

14 j. On or about June 27, 2005, approximately 49 securities known as puts in
15 Company F were purchased in Charles Schwab Account 6104-7616.

16 k. On or about June 29, 2005, approximately 30 securities known calls in
17 Company E were purchased in Charles Schwab Account 6104-7616.

18 l. On or about July 11, 2005, approximately 50 securities known as calls in
19 Company H were purchased in Charles Schwab Account 6104-7616.

20 m. On or about July 13, 2005, approximately 500 securities known as shares in
21 Company H were purchased in Charles Schwab Account 4176-1125.

22 n. On or about February 1, 2006, approximately 100 securities known as calls
23 in Company I were purchased in Charles Schwab Account 6104-7616.

24 o. On or about February 24, 2006, approximately 140 securities known as calls
25 in Andrx Corporation were purchased in Charles Schwab Account 6104-7616.

26 p. On or about February 24, 2006, approximately 100 securities known as calls
27 in Andrx Corporation were purchased in Fidelity Investments Account X84-378410.

28 INDICTMENT

1 q. On or about March 1, 2006, approximately 285 securities known as shares in
2 Andrx Corporation were purchased in Charles Schwab Account 4176-1125.

3 r. On or about July 21, 2006, approximately 20 securities known as calls in
4 HCA, Inc. were purchased in Charles Schwab Account 6104-7616.

5 s. On or about August 8, 2006, approximately 40 securities known as calls in
6 United Surgical Partners International, Inc. were purchased in Charles Schwab Account 6104-
7 7616.

8 t. On or about September 6, 2006, approximately 50 securities known as calls in
9 United Surgical Partners International, Inc. were purchased in Charles Schwab Account 6104-
10 7616.

11 u. On or about October 26, 2006, approximately 40 securities known as calls in
12 United Surgical Partners International, Inc. were purchased in Charles Schwab Account 6104-
13 7616.

14 v. On or about November 9, 2006, approximately 100 securities known as calls
15 in United Surgical Partners International, Inc. were purchased in Charles Schwab Account 6104-
16 7616.

17 w. On or about November 13, 2006, approximately 2,500 securities known as
18 shares in United Surgical Partners International, Inc. were purchased in Charles Schwab Account
19 4176-1125.

20 x. On or about December 15, 2006, approximately 99 securities known as calls
21 in United Surgical Partners International, Inc. were purchased in Charles Schwab Account 6104-
22 7616.

23 y. On or about January 3, 2007, approximately 105 securities known as calls in
24 United Surgical Partners International, Inc. were purchased in Charles Schwab Account 6104-
25 7616.

26 z. On or about January 4, 2007, approximately 200 securities known as calls in
27 United Surgical Partners International, Inc. were purchased in Fidelity Investments Account X84-

28 INDICTMENT

1 378410.

2 aa. On or about February 16, 2007, approximately 100 securities known as calls
3 in Company M were purchased in Charles Schwab Account 6104-7616.

4 bb. On or about February 16, 2007, approximately 2,000 securities known as
5 shares in Company M were purchased in Charles Schwab Account 4176-1125.

6 cc. On or about March 22, 2007, approximately 100 securities known as calls in
7 Biosite Incorporated were purchased in Charles Schwab Account 6104-7616.

8 dd. On or about March 23, 2007, approximately 875 securities known as shares
9 in Biosite Incorporated were purchased in Charles Schwab Account 4176-1125.

10 ee. On or about March 23, 2007, approximately 51 securities known as calls in
11 Biosite Incorporated were purchased in Charles Schwab Account 1080-2675.

12 ff. On or about March 23, 2007, approximately 57 securities known as calls in
13 Biosite Incorporated were purchased in Fidelity Investments Account X84-378410.

14 gg. On or about March 26, 2007, approximately 100 securities known as calls in
15 Company O were purchased in Charles Schwab Account 6104-7616.

16 hh. On or about April 16, 2007, approximately 1,000 securities known as shares
17 in Company O were purchased in Charles Schwab Account 4176-1125.

18 All in violation of Title 18, United States Code, Section 371.

19
20 COUNTS TWO THROUGH TWENTY-NINE: 15 U.S.C. §§ 78j(b) and 78ff;

21 17 C.F.R. §§ 240.10b-5, 240.10b5-1 and 240.10b5-2; 18 U.S.C. § 2 (Securities Fraud)

22 22. Paragraphs 1 through 21 are realleged as if fully set forth herein.

23 23. On or about the dates set forth below, in the Northern District of California and
24 elsewhere, the defendants,

25 MAHER FAYEZ KARA and
26 MOUNIR FAYEZ KARA,
27

28 willfully, directly and indirectly, by use of the means and instrumentalities of interstate

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commerce, the mails and the facilities of national securities exchanges, in connection with the purchase and sale of securities, did use and employ manipulative and deceptive devices and contrivances, and aided and abetted others in using and employing manipulative and deceptive devices and contrivances, in violation of Title 15, United States Code, Section 78j(b) and 78ff, and Title 17, Code of Federal Regulations, Sections 240.10b-5, 240.10b5-1 and 240.10b5-2, and Title 18, United States Code, Section 2, by (a) employing devices, schemes and artifices to defraud; (b) making untrue statements of material facts and omitting to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and (c) engaging in acts, practices and courses of business which operated and would operate as a fraud and deceit upon persons, to wit, MOUNIR FAYEZ KARA executed or caused others to execute the securities transactions listed below based on material, non-public information and confidential information MOUNIR FAYEZ KARA obtained from MAHER FAYEZ KARA:

COUNT	TRADE DATE	SECURITY	ACCOUNT	TRADE
TWO	May 10, 2004	Company A	Charles Schwab 6104-7616	purchased 30 calls
THREE	May 17, 2004	Schering-Plough Corporation	Charles Schwab 6104-7616	purchased 40 puts
FOUR	September 7, 2004	Pain Therapeutics, Inc.	Charles Schwab 6104-7616	purchased 35 puts
FIVE	December 2, 2004	Company C	Charles Schwab 6104-7616	purchased 50 calls
SIX	January 24, 2005	Protein Design Labs, Inc.	Charles Schwab 6104-7616	purchased 60 puts
SEVEN	June 21, 2005	Company E	Charles Schwab 4176-1125	purchased 750 shares
EIGHT	June 27, 2005	Company E	Charles Schwab 6104-7616	purchased 25 calls
NINE	June 27, 2005	Company F	Charles Schwab 6104-7616	purchased 49 puts
TEN	June 29, 2005	Company E	Charles Schwab 6104-7616	purchased 30 calls

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1	ELEVEN	July 11, 2005	Company H	Charles Schwab 6104-7616	purchased 50 calls
2	TWELVE	July 13, 2005	Company H	Charles Schwab 4176-1125	purchased 500 shares
3	THIRTEEN	February 1, 2006	Company I	Charles Schwab 6104-7616	purchased 100 calls
4	FOURTEEN	February 24, 2006	Andrx Corporation	Charles Schwab 6104-7616	purchased 140 calls
5	FIFTEEN	March 1, 2006	Andrx Corporation	Charles Schwab 4176-1125	purchased 285 shares
6	SIXTEEN	July 21, 2006	HCA, Inc.	Charles Schwab 6104-7616	purchased 20 calls
7	SEVENTEEN	August 8, 2006	United Surgical Partners International, Inc.	Charles Schwab 6104-7616	purchased 40 calls
8	EIGHTEEN	September 6, 2006	United Surgical Partners International, Inc.	Charles Schwab 6104-7616	purchased 50 calls
9	NINETEEN	October 26, 2006	United Surgical Partners International, Inc.	Charles Schwab 6104-7616	purchased 40 calls
10	TWENTY	November 9, 2006	United Surgical Partners International, Inc.	Charles Schwab 6104-7616	purchased 100 calls
11	TWENTY-ONE	November 13, 2006	United Surgical Partners International, Inc.	Charles Schwab 4176-1125	purchased 2,500 shares
12	TWENTY-TWO	December 15, 2006	United Surgical Partners International, Inc.	Charles Schwab 6104-7616	purchased 99 calls
13	TWENTY-THREE	January 3, 2007	United Surgical Partners International, Inc.	Charles Schwab 6104-7616	purchased 105 calls
14	TWENTY-FOUR	February 16, 2007	Company M	Charles Schwab 6104-7616	purchased 100 calls

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TWENTY-FIVE	February 16, 2007	Company M	Charles Schwab 4176-1125	purchased 2,000 shares
TWENTY-SIX	March 22, 2007	Biosite Incorporated	Charles Schwab 6104-7616	purchased 100 calls
TWENTY- SEVEN	March 23, 2007	Biosite Incorporated	Charles Schwab 4176-1125	purchased 875 shares
TWENTY- EIGHT	March 26, 2007	Company O	Charles Schwab 6104-7616	purchased 100 calls
TWENTY- NINE	April 16, 2007	Company O	Charles Schwab 4176-1125	purchased 1,000 shares

All in violation of Title 15, United States Code, Section 78j(b) and 78ff; Title 17, Code of Federal Regulations, Sections 240.10b-5, 240.10b5-1 and 240.10b5-2; and Title 18, United States Code, Sections 2 and 371.

COUNTS THIRTY THROUGH THIRTY-FIVE: 15 U.S.C. §§ 78j(b) and 78ff;

¹⁷ C.F.R. §§ 240.10b-5, 240.10b5-1 and 240.10b5-2; 18 U.S.C. § 2 (Securities Fraud)

24. Paragraphs 1 through 23 are realleged as if fully set forth herein.

25. On or about the dates set forth below, in the Northern District of California and elsewhere, the defendants,

MAHER FAYEZ KARA,
MOUNIR FAYEZ KARA and
EMILE YOUSSEF JILWAN.

willfully, directly and indirectly, by use of the means and instrumentalities of interstate commerce, the mails and the facilities of national securities exchanges, in connection with the purchase and sale of securities, did use and employ manipulative and deceptive devices and contrivances, and aided and abetted others in using and employing manipulative and deceptive devices and contrivances, in violation of Title 15, United States Code, Section 78j(b) and 78ff, and Title 17, Code of Federal Regulations, Sections 240.10b-5, 240.10b5-1 and 240.10b5-2, and Title 18, United States Code, Section 2, by (a) employing devices, schemes and artifices to defraud; (b) making untrue statements of material facts and omitting to state material facts necessary in order to make the statements made, in the light of the circumstances under which

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1 they were made, not misleading; and (c) engaging in acts, practices and courses of business
 2 which operated and would operate as a fraud and deceit upon persons, to wit, MOUNIR FAYEZ
 3 KARA and EMILE YOUSSEF JILWAN executed or caused others to execute the securities
 4 transactions listed below based on material, non-public information and confidential information
 5 MOUNIR FAYEZ KARA and EMILE YOUSSEF JILWAN obtained from MAHER FAYEZ
 6 KARA:

COUNT	TRADE DATE	SECURITY	ACCOUNT	TRADE
THIRTY	April 23, 2004	Endo Pharmaceuticals Holdings Inc.	Fidelity Investments X04-150312	purchased 10 puts
THIRTY-ONE	May 2, 2005	Bone Care International, Inc.	Fidelity Investments X04-150312	purchased 300 shares
THIRTY-TWO	February 24, 2006	Andrx Corporation	Fidelity Investments X84-378410	purchased 100 calls
THIRTY-THREE	January 4, 2007	United Surgical Partners International, Inc.	Fidelity Investments X84-378410	purchased 200 calls
THIRTY-FOUR	March 23, 2007	Biosite Incorporated	Fidelity Investments X84-378410	purchased 57 calls
THIRTY-FIVE	March 23, 2007	Biosite Incorporated	Charles Schwab 1080-2675	purchased 51 calls

20 All in violation of Title 15, United States Code, Section 78j(b) and 78ff; Title 17, Code of
 21 Federal Regulations, Sections 240.10b-5, 240.10b5-1 and 240.10b5-2; and Title 18, United
 22 States Code, Sections 2 and 371.

23 COUNT THIRTY-SIX: 18 U.S.C. § 371 (Conspiracy to Commit Obstruction)

24 26. Paragraphs 1 through 25 are realleged as if fully set forth herein.

25 27. From in or about April 2007 through in or about 2008, in the Northern District of
 26 California and elsewhere, the defendants,

27
28 INDICTMENT

1 MOUNIR FAYEZ KARA and
2 EMILE YOUSSEF JILWAN,

3 and others unlawfully, willfully, and knowingly, did conspire and agree together and with each
4 other to commit an offense against the United States, to wit, obstruction, in violation of Title 18,
5 United States Code, Sections 371 and 1505.

6 28. It was a part and object of the conspiracy that MOUNIR FAYEZ KARA, EMILE
7 YOUSSEF JILWAN and others unlawfully, willfully, and knowingly, directly and indirectly,
8 corruptly influenced, obstructed, and impeded, and endeavored to corruptly influence, obstruct,
9 and impede, the proper and due administration of law under which a pending proceeding was
10 being had before a department or agency of the United States, to wit, the SEC and its
11 investigation into securities fraud and insider trading relating to purchases and sales of securities
12 issued by Biosite Incorporated, in violation of Title 18, United States Code, Section 1505.

13

14 The Means and Methods of the Conspiracy to Obstruct

15 29. Among the means and methods by which MOUNIR FAYEZ KARA, EMILE
16 YOUSSEF JILWAN and others carried out this conspiracy to obstruct were the following:

17 a. MOUNIR FAYEZ KARA, EMILE YOUSSEF JILWAN and others
18 communicated about what statements and answers would be given by the conspirators to the SEC
19 in response to its inquiries and questions.

20 b. MOUNIR FAYEZ KARA, EMILE YOUSSEF JILWAN and others
21 discussed the existence of publicly available documents and other materials, to wit, purported
22 research, analysis, and commentary about publicly traded companies, for the purpose of
23 misleading the SEC about the use of such materials to purchase and sell securities that were the
24 subject of the SEC's investigation.

25 c. MOUNIR FAYEZ KARA, EMILE YOUSSEF JILWAN and others made
26 false and misleading statements to the SEC during interviews with an intent to corruptly
27 influence, obstruct, and impede the SEC's investigation.

28 INDICTMENT

1 d. MOUNIR FAYEZ KARA, EMILE YOUSSEF JILWAN, and others
2 provided, and attempted to provide, documents and other materials to the SEC, to wit, purported
3 research, analysis and commentary about Biosite Incorporated and other matters, with an intent to
4 corruptly influence, obstruct, and impede the SEC's investigation.

5

6 The Overt Acts of the Conspiracy to Obstruct

7 30. In furtherance of the conspiracy and to effect the illegal object thereof, MOUNIR
8 FAYEZ KARA and EMILE YOUSSEF JILWAN committed and caused others to commit the
9 following overt acts, among others, in the Northern District of California and elsewhere:

10 a. On or about April 30, 2007, MOUNIR FAYEZ KARA made statements to
11 the SEC during a telephone interview.

12 b. On or about April 30, 2007, EMILE YOUSSEF JILWAN made statements to
13 the SEC during a telephone interview.

14 c. In or about May 2007, MOUNIR FAYEZ KARA spoke with a person,
15 known to the Grand Jury, about so-called stock research and media broadcasts by Jim Cramer.

16 d. In or about May 2007, MOUNIR FAYEZ KARA spoke with a second
17 person, known to the Grand Jury, about so-called stock research and media broadcasts by Jim
18 Cramer.

19 e. Later in 2007, after May 2007, MOUNIR FAYEZ KARA spoke with a third
20 person, known to the Grand Jury, about so-called stock research and media broadcasts by Jim
21 Cramer.

22 f. On or about July 2, 2008, MOUNIR FAYEZ KARA produced or otherwise
23 provided, or caused others to produce or otherwise provide, documents and other materials to the
24 SEC.

25 g. On or about August 12, 2008, EMILE YOUSSEF JILWAN produced or
26 otherwise provided, or caused others to produce or otherwise provide, documents and other
27 materials to the SEC.

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1 All in violation of Title 18, United States Code, Section 371.
2
3

COUNT THIRTY-SEVEN: 18 U.S.C. § 1505 (Obstruction)

4 31. Paragraphs 1 through 30 are realleged as if fully set forth herein.

5 32. On or about April 30, 2007, in the Northern District of California and elsewhere,
6 the defendant,

7 MOUNIR FAYEZ KARA,

8 unlawfully, willfully, and knowingly, corruptly influenced, obstructed, and impeded, and aided
9 and abetted others to corruptly influence, obstruct, and impede, the due and proper administration
10 of the law under which a pending proceeding was being had before a department or agency of the
11 United States, to wit, the SEC and its investigation into securities fraud and insider trading
12 relating to purchases and sales of securities issued by Biosite Incorporated.

13 All in violation of Title 18, United States Code, Sections 1505 and 2.

14
15 COUNT THIRTY-EIGHT: 18 U.S.C. § 1505 (Obstruction)

16 33. Paragraphs 1 through 32 are realleged as if fully set forth herein.

17 34. On or about April 30, 2007, in the Northern District of California and elsewhere,
18 the defendant,

19 EMILE YOUSSEF JILWAN,

20 unlawfully, willfully, and knowingly, corruptly influenced, obstructed, and impeded, and aided
21 and abetted others to corruptly influence, obstruct, and impede, the due and proper administration
22 of the law under which a pending proceeding was being had before a department or agency of the
23 United States, to wit, the SEC and its investigation into securities fraud and insider trading
24 relating to purchases and sales of securities issued by Biosite Incorporated.

25 All in violation of Title 18, United States Code, Sections 1505 and 2.

26
27
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FORFEITURE ALLEGATION

35. Paragraphs 1 through 34 are realleged as if fully set forth herein and by this reference fully incorporated herein for the purpose of alleging forfeiture pursuant to the provisions of Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461.

36. Upon a conviction of any of the offenses alleged in Counts One through Thirty-Eight, the defendants,

MAHER FAYEZ KARA,
MOUNIR FAYEZ KARA, and
EMILE YOUSSEF JILWAN,

shall forfeit to the United States pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, all right, title and interest in property, real and personal, involved in said violations as alleged in Counts One through Thirty-Eight of this Indictment, including but not limited to the following property:

a. a sum of money equal to approximately \$5.3 million, representing the amount of proceeds obtained as a result of the offenses alleged in Counts One through Thirty-Eight, and

b. real property located at 616 Sugarloaf Court, Walnut Creek, Contra Costa County, California, 94596-6354 (Assessors Parcel Number 187-020-080-3).

37. If any of the above-described forfeitable property, as a result of any act or omission of the defendants:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty;

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any and all interest defendant has in any other property, up to the value of the property described in paragraph 36 above, shall be forfeited to the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c).

All in violation of Title 15, United States Code, Section 78j(b) and 78ff; Title 17, Code of Federal Regulations, Sections 240.10b-5, 240.10b5-1 and 240.10b5-2; Title 18, United States Code, Sections 2, 371 and 981(a)(1)(C); Title 21, United States Code, Section 853(p); and Title 28, United States Code, Section 2461.

8

9 DATED: April 21, 2009

10

11 A TRUE BILL

12

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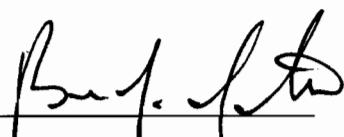
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FOREPERSON

16

17 JOSEPH P. RUSSONIELLO
United States Attorney

18



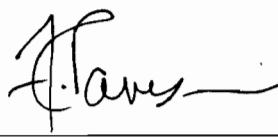
19

20 BRIAN J. STRETCH
Chief, Criminal Division

21

22 Approved as to form:

23



24

25 ADAM A. REEVES
Assistant United States Attorney

26

27 INDICTMENT